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July 3, 2014

The Honorable Mark S. Cady
Iowa Supreme Court
1111 East Court Avenue
Des Moines, IA 50319

RE: Access to Justice Issues

Dear Chief Justice Cady:

It is my understanding that the Court will be reviewing access to justice issues during its administrative term this summer. I am writing to provide additional information to the Court following up on the report provided by the Iowa State Bar Association's Access to Justice Committee. This Committee began its work after Chris Luzzie, Litigation Director with Iowa Legal Aid, and I met with you and Molly Kottmeyer in July 2012. The issues we raised at that time included the impact of significant funding reductions on the delivery of legal services to low-income Iowans and other access to justice issues. As you may recall, that meeting resulted, among other things, in discussions that brought about the adoption of an emeritus practice rule and changes in student practice rules.

Access to justice issues remain a critical issue impacting the lives of low-income Iowans, the operations of the court system and indeed Iowa's economic future. When individuals and families are victims of domestic violence, or are homeless, it impacts Iowa's economy and the future success of the children impacted by violence and homelessness.

Iowa Legal Aid has one significant issue on which it is requesting the Court's action at the present time:

Iowa Legal Aid requests that the court implement an attorney licensure fee of \$100 per attorney, with appropriate exemptions, beginning in 2016. The proceeds of the fee would be used to support Iowa Legal Aid's services to low-income Iowans. Since Iowa Legal Aid will be merging with HELP Legal Assistance at the end of 2014, Iowa Legal Aid will be the only legal aid organization in Iowa funded by the national Legal Services Corporation (LSC) and subject to the LSC restrictions on services. Through this unified statewide system, services are available to low-income Iowans throughout the state of Iowa on a relatively equal basis.

The additional funding generated by the new fee will be critical to Iowa Legal Aid's ability to help low-income Iowans in 2016 and later years. In 2014, our LSC funding is \$250,138 less than it was in 2010, while the IOLTA funding for Iowa Legal Aid and HELP Legal Assistance is \$771,905 less than it was in 2008-2009. As a result of the foreclosure crisis during the last few years, Iowa Legal Aid has received substantial, but temporary, funding from special foreclosure

grants that have allowed us to maintain some staff who would otherwise not have been able to work with Iowa Legal Aid to serve clients. For example, in 2013, the foreclosure funding amounted to \$823,573. The foreclosure funding will likely end June 30, 2015 or shortly thereafter. Without significant additional revenues in 2016 to replace the funds lost as a result of the end of special funding to provide services to individuals facing foreclosure, services to low-income Iowans will again be significantly reduced.

In order to return Iowa Legal Aid's services to the level provided in 2010, including returning staffing levels to the 2010 level, it would cost a projected \$1,800,000 or more, taking into account increased personnel costs and other expenses. It is important to note, however, that even at the higher staffing level in 2010, Iowa Legal Aid would still be turning away or under serving thousands of Iowans every year. Although the proposed increase in the licensing fee would not completely fill this gap in funding, it would provide a partial replacement of the lost funding.

A portion of the \$1.8 million justice gap has been filled by an increase in state funding of \$585,169. With the state funding, there is still a deficit of \$1.2 million. With a \$100 per attorney licensure fee, even after all 8000 licensed attorneys were assessed the fee, which no one has proposed, only \$800,000 would be raised instead of \$1.2 million. Even with the fee, at least a \$400,000 deficit would remain in order to get legal aid services back to the 2010 level.

Although Iowa Legal Aid currently provides services to approximately 18,125 households per year, we turn away or underserve approximately 13,500 families every year. If Iowa Legal Aid does not receive additional funding in future years, the number of people who do not get the help they need will only increase. The 2010 census data indicates that 499,474 Iowans have income at 125% of the poverty level (\$29,438 for a family of four) or below, which is the normal LSC financial eligibility requirement for legal aid service. This is a 39% increase from the 2000 Census. The increasing inability of Iowa Legal Aid and volunteer lawyers to provide the legal assistance needed by low-income Iowans creates a justice gap in which low-income Iowans will not get help with critical issues involving domestic abuse, illegal evictions and foreclosures, consumer frauds and the denial of SSI, Medicaid and other public benefits.

Access to our court system is important for everyone, but especially for low-income people. Every day, the courts and state and federal agencies decide crucial issues affecting the safety, security and stability of low-income families. Court decisions involving domestic abuse protection orders, evictions and home foreclosures have a major impact on whether low-income families will be safe or in danger of violence, housed or homeless. Agency decisions about food, medical, disability and unemployment benefits, and cash support for children may be the difference between being fed or going hungry.

The Iowa State Bar Association's Access to Justice Committee's report that the Court is currently reviewing studied the fee proposal and many other issues related to access to justice for low-income Iowans. The Access to Justice Committee initially recommended that attorney licensure fees be increased by \$75 to \$100 annually, with appropriate exemptions, to support legal aid services. In its final review, however, the Committee deleted the licensure fee recommendation. The deletion was made in response to concerns raised regarding the potential adverse impact any increase in licensure fees might have on membership in the ISBA. Although the Committee had concluded that there should be no significant impact on membership, once the Bar Association raised this issue, it appeared to the Committee to present a conflict of

interest for the ISBA to vote on this one recommendation. As a result, the Committee withdrew the recommendation for the licensure fee, although the Committee never changed its underlying conclusions regarding the need for the additional funding or the merit of joining the approach taken in Minnesota, Wisconsin, Illinois, Missouri and several other states.

As noted in its final report, a copy of which the ISBA has provided to you earlier this year, the Access to Justice Committee believed that some exemptions should apply for the licensure fee, but did not come up with specific recommendations. The Committee generally agreed that exemptions made sense for newly licensed lawyers in their first five years of practice, judges, and emeritus attorneys. The committee did not see a strong reason to exempt government, part-time, or corporate attorneys.

Iowa Legal Aid's Board of Directors reviewed and approved the attached document entitled, "Talking Points Regarding the Report of the Iowa State Bar Association Access to Justice Committee," which provides additional information regarding the report.

We urge the court to approve a \$100 licensure fee beginning in 2016. The fee will not solve the access to justice problem in Iowa, but it will allow more low-income Iowans to receive the critical, legal assistance they need. It will demonstrate to legislators and other funders that Iowa lawyers are contributing to the solution to this growing problem. The fee is also consistent with lawyers' ethical obligations to support legal assistance for low-income Iowans.

We appreciate the Court's consideration of this issue. We would be happy to provide additional information or meet with representatives of the Court at any time if desired.

Sincerely,



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DG/tb

cc: Molly Kottmeyer
Attachment: Talking Points